Fiscal Note 2011 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0185	**Title:**	Allow tax deduction for other states college saving plans
Primary Sponsor:	Nooney, Bill	**Status:**	Select status

☐ Significant Local Gov Impact ☐ Needs to be included in HB 2 ☐ Technical Concerns

☐ Included in the Executive Budget ☐ Significant Long-Term Impacts ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
Revenue:				
General Fund	($71,470)	($75,015)	($78,736)	($82,641)
Net Impact-General Fund Balance	($71,470)	($75,015)	($78,736)	($82,641)

Description of fiscal impact:

This bill would allow Montana taxpayers to exempt from income tax amounts deposited in or withdrawn from other states' equivalents of Montana's Family Education Savings Accounts. This would reduce general fund revenue by $71,000 to $83,000 a year, beginning in FY 2010.

FISCAL ANALYSIS

Assumptions:

1. Montana and most other states have college savings or tuition pre-payment programs that meet the requirements of Section 529 of the Internal Revenue Code. Earnings on accounts in these programs are exempt from federal income tax as long as they are used to pay for qualifying higher education expenses. Title 15, Chapter 62 creates Montana's Section 529 program. Under this program, taxpayers may make deposits to family education savings accounts and pay higher education expenses from these accounts,
2. Under current law, deposits to family education savings accounts and earnings withdrawn from an account are excluded from income subject to the Montana income tax. This bill would make deposits into and payment of education expenses from any state's Section 529 program exempt from Montana income tax.
3. Family education savings account exemptions were claimed on 2,433 returns for 2007. The total amount exempted was $8,089,950. Tax liability was recalculated for these returns with the exempt amounts added to their income, and it was found that the exemptions reduced tax liability by $368,607.

4. The Montana Family Education Savings Program (MFESP) surveyed programs in other states and estimated that Montanans have 2,100 accounts in other states' programs with balances of $35 million. This compared to 14,300 Montana accounts with balances of $199 million. Out of state account balances were 17.6% of in-state balances.
5. If this bill had been in effect in 2007, taxpayers with out-of-state accounts would have taken additional exemptions and have had lower tax liability. This fiscal note assumes that their exemptions and tax liability reductions would have been proportional to their account balances, so that both exemptions and the resulting tax liability reductions would have been 17.6% higher. This would have reduced 2007 income tax liability by $64,875 per year ($368,607 × 17.6%).
6. This bill would apply beginning with tax year 2009. The average annual growth rate of family education savings account exemptions from 2003 to 2007 was 4.96%. Assuming that program use will continue to grow at this rate, this bill would reduce tax liability for 2009 through 2012 as shown in the following table:

Year	Growth from 2007 at 4.96% Per Year	Reduction in Tax Liability
2007		$64,875
2009	10.2%	$71,470
2010	15.6%	$75,015
2011	21.4%	$78,736
2012	27.4%	$82,641

7. Taxpayers will exempt income based on their Section 529 program deposits on their returns filed in the spring following each tax year. Reductions to general fund revenue will show up as larger refunds or smaller payments with these returns. Thus, the reductions in tax liability in assumption 7 will produce equal reductions in general fund revenue in the following fiscal years.
8. The Department of Revenue receives information every year from MFESP that allows the department to verify exemptions claimed on tax returns. The department would not receive equivalent information from other states' programs and would require additional documentation from the taxpayer. This would require additional instructions in the income tax booklet. Unless the additional instructions required another page in the booklet, there would be no additional monetary cost.

	FY 2010 Difference	**FY 2011 Difference**	**FY 2012 Difference**	**FY 2013 Difference**
Fiscal Impact:				
Revenues:				
General Fund (01)	($71,470)	($75,015)	($78,736)	($82,641)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($71,470)	($75,015)	($78,736)	($82,641)

Technical Notes:

1. The bill references requirements for a Section 529 program in section 529(b)(1)(A)(ii) of the Internal Revenue Code. Section 529(b)(1(B) also contains relevant requirements and should also be referenced.

Sponsor's Initials *Date* *Budget Director's Initials* *Date*